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ISH-001-USA-CIP
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **H. Tanaka, et al.**

Serial No.: **09/818,692**

Art Unit: **1617**

Filed: **March 28, 2001**

Examiner: **L. Wells**

For: **Cosmetics Comprised Of A Flaky, Fine Powder And Method Of Production**

SUPPLEMENTAL NOTICE OF APPEAL FROM THE EXAMINER
TO THE BOARD OF PATENT APPEALS & INTERFERENCES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned hereby confirms that the rejection of claims 1-17 and 23 is being appealed herein and in the previously filed Notice of Appeal.

MPEP 1205, under the "Appeal by Patent Applicant" section, states that, "The notice of appeal and appropriate fee may be filed up to 6 months from the date of the final rejection, so long as an appropriate petition and fee for an extension of time is filed either prior to or with the notice of appeal". In the present application, the applicants filed a Response After Final Rejection and Petition for Extension of Time, with the appropriate fee, on July 23, 2004. Copies of both filed documents are attached hereto. The undersigned has not received an Office Action replying to the Response after Final Rejection mentioned above.

Subsequently, Applicants appealed to the Board of Patent Appeals and Interferences from the final rejection by the Examiner, in a Notice of Appeal filed August 16, 2004, copy attached hereto. In addition, a check for the fee in the amount of \$330.00 for this Notice of Appeal, as called for in 37 C.F.R. 1.17(b), was provided therewith. In addition, the Director was authorized to charge any deficiency in the fee, or credit any overpayment thereof, to Deposit Account No. 20-1424. Thus, it is believed that all necessary fees for appeal have been paid.

Although a Petition for Extension of Time was filed with the Response After Final Rejection, no Petition for Extension of Time was filed with the Notice of Appeal filed within one month of the filing of the Response After Final Rejection. The Applicants believe that MPEP 1205 is vague as to whether an additional Petition for Extension of Time, and an appropriate additional extension of time fee, is required to have been filed with the Notice of Appeal filed August 16, 2004. The undersigned believes that the filing of a Petition for Extension of Time, and requisite filing fee provided therewith, was sufficient to cover the later filing of the Notice of Appeal in the instant application. However, Applicants hereby petition the Commissioner under 37 C.F.R. 1.136(a) for any additional extension of time needed for filing of the Notice of Appeal, and authorize the Commissioner to charge to our Deposit Account No. 20-1242 any additional extension of time fees required for such petition, that may be appropriate in this circumstance for the filing of the Notice of Appeal filed August 16, 2004.

The undersigned shall be filing an appeal brief in the instant application in the near future. However, in the meantime, in the event the Commissioner should have any questions and/or comments regarding the above, it is respectfully requested that the undersigned be

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contacted at the number and/or address listed below to resolve any problems.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald E. Townsend", with a stylized flourish at the end.

Donald E. Townsend
Attorney of Record
Registration No. 22,069

Date: September 24, 2004

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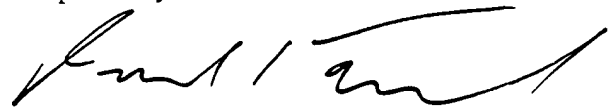
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the Examiner.

A check for the fee in the amount of \$330.00 for this Notice of Appeal, as called for in 37 C.F.R. 1.17(b) is enclosed herewith. In addition, the Director is hereby authorized to charge any deficiency in the fee, or credit any overpayment thereof, to Deposit Account No. 20-1424. A duplicate copy of this Notice is attached hereto, for use in the event of such need to charge or credit the above-identified Deposit Account.

Respectfully submitted,



Donald E. Townsend
Attorney of Record
Registration No. 22,069

Date: August 16, 2004

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